June 4, 2013

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
Subcommittee on Health
United States House of Representatives
1135 Longworth House Office Building
Washington, DC 20515

The Honorable Jim McDermott
Ranking Member
Committee on Ways and Means
Subcommittee on Health
United States House of Representatives
1035 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member McDermott:

The American Association of Bioanalysts (AAB) and the National Independent Laboratory Association (NILA) appreciate the opportunity to submit comments for the record in follow up to the Ways and Means Committee Subcommittee on Health's hearing on proposals to reform Medicare held on May 21, 2013. We appreciate that the Subcommittee is planning to hold a series of hearings on Medicare reform and that the focus of this hearing was mainly on proposals to change cost-sharing for services received under the Medicare program.

AAB and NILA represent the owners, directors, supervisors, and technologists of independent, regional and community clinical laboratories working with physician practices, hospitals, outpatient care settings, skilled nursing facilities, and home health care agencies. The majority of our members are community-based businesses that want to ensure access to laboratory services for Medicare beneficiaries by allowing competitiveness in the laboratory market, and as such, are significantly concerned about further cuts to the Part B Clinical Laboratory Fee Schedule (CLFS) either through direct reductions or through the imposition of cost-sharing requirements on all laboratory services.

AAB and NILA urge the Subcommittee to oppose Medicare Part B cost sharing (coinsurance or copays) for clinical laboratory services. Cost sharing—whether through a uniform coinsurance or direct copay across laboratory services—will result in deep cuts to clinical laboratory reimbursement, threatening Medicare beneficiaries' access to essential services. In addition, the cost of collecting the copay frequently exceeds the amount collected.

A 2000 Institute of Medicine report on Medicare laboratory payment policy recommended against beneficiary cost sharing, concluding that "cost sharing is unlikely to significantly reduce overuse or increase the detection of fraud and abuse; it could create barriers to access for the most vulnerable Medicare beneficiaries; and it would be financially and administratively burdensome for laboratories, patients, and the Medicare program." Additionally, in 2011, the Congressional Budget Office did not include laboratory coinsurance or co-pays in the savings options presented to Congress. In its report to Congress, the Medicare Payment Advisory Commission also did not include any recommendation for cost sharing on laboratory services.

AAB and NILA also want to express serious concern to the Subcommittee about further reducing the Medicare Part B CLFS as addressed in the President's 2014 budget. Such reductions would undoubtedly result in the closure of many small and mid-size community laboratory providers that are already struggling after receiving drastic Medicare cuts over the last few years, as follows:

- 1.75 percent reduction every year for five years (2010-2015) and a productivity adjustment every year through the Affordable Care Act;
- 2 percent reduction from the Middle Class Tax Relief and Job Creation Act of 2012 passed in February 2012 for the short-term Sustainable Growth Rate patch; and,
- 2 percent reduction in FY 2013 from sequestration.

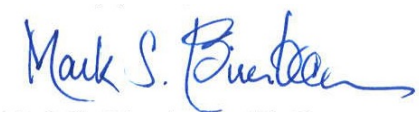
Additional reductions to the CLFS do nothing to meet Congress's goal of reducing overall health care spending and improving the quality of patient care. Such cuts do not modernize the fee schedule for laboratory services, as suggested in the President's proposal. Such cuts would only lead to a reduction in competition within the laboratory market and a limitation on access to laboratory services, particularly in rural communities and nursing home populations, both largely served by AAB and NILA members.

Independent clinical laboratories are being forced to make drastic economic decisions to ensure their viability in an already difficult market. As demonstrated in a 2012 survey conducted by the George Washington University, a significant number of small and mid-size independent clinical laboratories operate on very low margins, with profit margins that do not exceed 3 percent. Additional cuts are not an option if these laboratories are to continue to serve Medicare beneficiaries.

AAB and NILA have formed a new workgroup to look at issues concerning payment for clinical lab services and to establish new ideas to address the value of laboratory services. Over the coming months, as you address larger issues concerning Medicare payment reforms and associated health expenditures, we want to continue our dialogue with you. Additional cuts to clinical laboratory services would have severe consequences on community independent labs. Other policy reforms, i.e. cost-sharing or coinsurance could also fundamentally shift the lab market and have dire consequences on beneficiaries' access to services. We want to work with you to be part of the solution.

If we can provide additional information, please feel free to contact me directly at me at 314.241.1445 or birenbaumm@birenbaum.org; or Julie Allen, our Washington representative at 202.230.5126 or julie.allen@dbr.com.

Sincerely,



Mark S. Birenbaum, Ph.D.
Administrator
AAB and NILA